

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

PAUL A. WENTWORTH,)

Defendant.)

4:06CR3172

**MEMORANDUM
AND ORDER**

Pursuant to Federal Rule of Criminal Procedure 17.1 and a related hearing whereat the defendant and counsel for all parties appeared,

IT IS ORDERED that:

1. The defendant's motion in limine (filing [49](#)) is denied except as indicated below:
 - A. The motion in limine is granted to the extent that the government is precluded from calling forage producers as witnesses.
 - B. The motion in limine is granted to the extent that the government shall limit the presentation of Federal Rule of Evidence 404(b) witnesses to the following persons: Mr. Lytle, Mr. Wardyn, and Mr. Ksionzek.
 - C. The government agrees not to call a loss expert to testify at trial with the understanding that if the defendant is convicted, the government may present such evidence at sentencing.

- D. The defendant agrees not to argue to the jury that the relatively small number of counts (24) set forth in the second superseding indictment as compared to the total number of producers (400 or so) is relevant.
2. The following dates and deadlines are established:
- A. Trial of this matter is scheduled to commence on November 3, 2008 and extending through no later than November 21, 2008 (including jury selection and closing argument).
 - B. The defendant shall give notice of any intent to enter a plea of guilty on or before the close of business on October 14, 2008. The court may not accept a guilty plea tendered after that date and time or the court may impose sanctions for a late-tendered guilty plea such as the loss of points under the advisory Guidelines.
 - C. Each side shall disclose to the other side trial exhibits no later than October 27, 2008.
 - D. The government shall make its expert, Mr. Bill Harris, available for an interview by defense counsel on or before October 27, 2008. The defense shall make its expert, Mr. Pat Umburger, available for an interview by government's counsel on or before October 27, 2008. Both witnesses shall be fully prepared at the time of the interview to explain their expected trial testimony.
 - E. The deadline for motions in limine is October 29, 2008.

- F. The deadline for jury instructions and verdict form is November 3, 2008.
- 3. The following stipulations are agreed to:
 - A. Except for exhibits specifically listed in a motion in limine filed on or before October 29, 2008, foundation on all exhibits is waived.
 - B. During all times relevant to this case, crop insurance companies, including Rural Community Insurance Services (RCIS), transmitted data to the Risk Management Agency (RMA) over dedicated telephone lines in an encrypted format. The RMA received the data, decrypted it, and processed it without altering the data. Yield Records were classified by RMA as APH Yield Information Type 15; Acreage Reports were classified as Type 11; and loss records were classified as Loss Line Record Type 21. When insurance companies, such as RCIS, paid a loss to a producer pursuant to a crop insurance policy, the RMA reimbursed the company for such paid losses.
- 4. The following trial-related matters have been agreed upon:
 - A. Two alternate jurors will be selected.
 - B. The parties will prepare “jury books” for use by the jurors.
- 5. Should any party believe that this memorandum and order is inaccurate or incomplete, a written objection, stating the specific nature of the objection, shall be filed before the close of business on Friday, October

10, 2008. If no such objection is filed, this memorandum and order shall govern the subsequent handling of this case except to the extent that it is modified by the undersigned for a good reason.

October 3, 2008.

BY THE COURT:

s/Richard G. Kopf
United States District Judge